

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) CE11826JME
I hereby certify that this correspondence is being electronically transmitted on the date listed below [(37 CFR 1.8(a))]. on: <u>April 26, 2007</u>	Application Number 10/722,866	Filed November 26, 2003
Signature <u>/Larry G. Brown/</u> <u>Larry G. Brown</u> Typed or printed name	First Named Inventor Amy M. Tupler	
	Art Unit 2617	Examiner Desir, Pierre Louis
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheets(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <input type="checkbox"/> applicant inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) </div> <div style="width: 45%;"> <u>/Larry G. Brown/</u> Signature <u>Larry G. Brown</u> Typed or printed name </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>45,634</u> </div> <div style="width: 45%;"> <u>(954) 723-6449</u> Telephone number </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="width: 45%;"> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34: _____ </div> <div style="width: 45%;"> <u>April 26, 2007</u> Date </div> </div>		
<p>NOTE: Signatures of all the inventors or assignees or record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*</p>		
<input type="checkbox"/> *Total of <u>1</u> forms are submitted.		

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Amy M. Tupler GROUP ART UNIT: 2617
 APPLN. NO.: 10/722,866 EXAMINER: Desir, Pierre Louis
 FILED: November 26, 2003 Confirmation No. 8598
 TITLE: PIVOTAL DISPLAY FOR A MOBILE COMMUNICATION DEVICE

CERTIFICATE UNDER 37 CFR 1.8(a)	
I hereby certify that this correspondence is being electronically transmitted on the date listed below:	
Date:	April 26, 2007
Signature	/Larry G. Brown/
Typed or printed name:	Larry G. Brown

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop: **AF**
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

Applicants request review of the Final Office Action mailed December 28, 2006 concerning the above-identified application in furtherance of the Notice of Appeal filed on April 26, 2007. Claims 1-4 and 7-22 remain pending in the application, a copy of which can be found in Applicants' Amendment of October 12, 2006. Claims 1-4 and 7-22 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,009,336 to Harris, et al. (Harris).

Independent Claims 1 and 21

Independent claims 1 and 21 recite the feature that the display support includes at least one support member rigidly attached to the display and at least one pivot member rigidly attached to the support member and pivotally attached to the platform.

Harris discloses a hand-held radiotelephone having a detachable display. In particular, Harris describes a communication device (104) that includes a housing (108) and another housing (110) in which the housing (110) can be positioned in a recess (400) of the housing (108) (see FIG. 4 and col. 7, lines 15-18). The housing (110) is held in the recess (400) by a latch (112), of which a turret (402) of the latch (112) extends from the housing (108) into the recess (400) (see col. 7, lines 18-21). The turret (402) of the latch (112) is carried on the housing (108) and mates with a sleeve (502) of the latch (112) that is carried on the housing (110) (see FIG. 5 and col. 7, lines 22-24). This sleeve (502) is integrally formed in a rear surface (519) of the housing (110) and includes a pair of flanges (520) that are also integrally molded with the housing (110) (see col. 7, lines 54-55 and lines 58-62). As the housing (110) is rotated, flanges (520) of the turret (402) are drawn under a ledge (504) of the turret (402) (see FIG. 5 and col. 8, lines 38-40). The housings (108, 110) may be detached, and when done so, the sleeve (502) is separated from the turret (402) (see col. 9, lines 6-12).

The Examiner has attempted to equate the turret (402) and sleeve (502) of Harris with the claimed pivot member and support member, respectively (see pages 3 and 4 of the Final Office Action of December 28, 2006). Moreover, the Examiner has written that the housing (108) of Harris is equivalent to the claimed platform (see page 3 of the Final Office Action of December 28, 2006). Applicants submit that the turret (402) of Harris is not rigidly attached to the sleeve (502), i.e., it does not show a pivot member rigidly attached to the support member. One of skill in the art would appreciate that the claim term "rigidly attached" does not include the ability to pivot or rotate, particularly when the distinctive term "pivotally attached" is recited in the same claim. As further evidence that the turret (402) is not rigidly attached to the sleeve (502), the housing (110) - which

carries the sleeve (502) – and the housing (108) – which carries the turret (402) – are capable of being completely detached.

Applicants also contend that the turret (402) of Harris is not pivotally attached to the housing (108), i.e., it does not show the pivot member attached to the platform. As shown in FIG. 5 of Harris, the turret (402) is rigidly attached to the housing (108) and is rotatably coupled to the housing (110). In fact, if the turret (402) were rigidly attached to the sleeve (502) and pivotally attached to the housing (108), the communication device (104) would not be able to change modes, as the sensors of the turret (402) would not be able to be triggered.

Independent Claim 22

Independent claim 22 recites means for permitting the display to rotate about the first axis and to rotate about the second axis in response to one or more tactile forces. As recited here, rotation is permitted about *both* the first and second axes. The Examiner has noted that Harris describes means for permitting rotation about a first perpendicular axis in response to a tactile force (see page 8 of the Final Office Action of December 28, 2006). Applicants do not dispute this contention. Applicants submit, however, that Harris does not describe or even suggest movement of the display around two separate axes.

Conclusion

In view of the above, Applicants contend that the claims are patentable over the cited prior art references. Reconsideration and withdrawal of the rejection of the claims is respectfully requested. Passing of this case is now believed to be in order, and a Notice of Allowance is earnestly solicited.

Concurrently with this submission, Applicants are paying the requisite fee for a 1 month Extension of Time.

The Commissioner is hereby authorized to charge any necessary fee, or credit any overpayment, to Motorola, Inc. Deposit Account No. 50-2117.

Respectfully submitted,

Date: April 26, 2007

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